



## DEPARTMENT OF HOMELAND SAFETY

### Coast Guard

### 33 CFR Part 165

[Docket Number USCG-2022-0288]

RIN 1625-AA00

### Safety Zone; Movie Production; Buzzards Bay, New Bedford, MA

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

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**SUMMARY:** The Coast Guard is establishing a temporary safety zone for navigable waters within a 150-yard radius of movie production vessels filming near the hurricane barrier in New Bedford, Massachusetts. The safety zone is needed to protect cast members in the water and vessels operating in the area during movie production operations. Entry of vessels or persons into this zone is prohibited unless specifically authorized by the Captain of the Port Sector Southeastern New England or a designated representative.

**DATES:** This rule is effective from 8 a.m. June 1, 2022 through 6 p.m. June 5, 2022. This rule will only be subject to enforcement from 8 a.m. through 6 p.m. on one of these dates dependent on weather conditions.

**ADDRESSES:** To view documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, type USCG-2022-0288 in the "SEARCH" box and click "SEARCH." Click on Open Docket Folder on the line associated with this rule.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this rule, call or email Petty Officer Joshua Herriott, Sector Southeastern New England, U.S. Coast Guard; telephone (401) 435-2342, email [SENEWWM@uscg.mil](mailto:SENEWWM@uscg.mil).

## **SUPPLEMENTARY INFORMATION:**

### **I. Table of Abbreviations**

CFR	Code of Federal Regulations
COTP	Captain of the Port Sector Southeastern New England
DHS	Department of Homeland Safety
FR	<b>Federal Register</b>
NPRM	Notice of Proposed Rulemaking
§	Section
U.S.C.	United States Code

### **II. Background Information and Regulatory History**

The Coast Guard is issuing this temporary rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are “impracticable, unnecessary, or contrary to the public interest.” Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a Notice of Proposed Rulemaking (NPRM) with respect to this rule because the safety zone must be established by June 1, 2022. Any delay encountered in this regulation’s effective date by publishing a NPRM would be contrary to public interest since immediate action is needed to provide for the safety of life and property on navigable waters from the hazards created by the movie production including people and equipment in the water and numerous support vessels.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Delaying the effective date of this rule would be impracticable because immediate action is needed to protect the safety of life and property on the navigable waters from the hazards created by the movie production including people and equipment in the water and numerous support vessels.

### **III. Legal Authority and Need for Rule**

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70034 (previously 33 U.S.C. 1231). The movie production company requested that the Coast Guard establish a safety zone within a 150-yard radius near the hurricane barrier in New Bedford, Massachusetts, approximate position, 41° 37.460N, 070° 54.350W. The purpose of the temporary safety zone is to facilitate the safety of the cast and production crew within the safety zone during movie production operations.

#### **IV. Discussion of the Rule**

For the reasons above, the Captain of the Port, Sector Southeastern New England (COTP) is establishing a temporary safety zone within a 150-yard radius near the hurricane barrier in New Bedford, Massachusetts, approximate position, 41° 37.460N, 070° 54.350W. No vessel or person will be permitted to enter the safety zone from 8 a.m. June 1, 2022 through 6 p.m. June 5, 2022. This rule will only be subject to enforcement from 8 a.m. through 6 p.m. on one of these dates dependent on weather conditions. Entry into the safety zone is prohibited unless specifically authorized by the COTP or their designated representative. A designated representative is a commissioned, warrant, or petty officer of the U.S. Coast Guard assigned to units under the operational control of U.S. Coast Guard Sector Southeastern New England.

Requests for entry will be considered and reviewed on a case-by-case basis. The COTP may be contacted by telephone at 508-457-3211 or can be reached by VHF-FM channel 16. Persons and vessels permitted to enter these safety zone must transit at their slowest safe speed and comply with all lawful directions issued by the COTP or the designated representative.

#### **V. Regulatory Analyses**

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on a number of these statutes and Executive orders, and we discuss First Amendment rights of protestors.

### *A. Regulatory Planning and Review*

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. This rule has not been designated a “significant regulatory action,” under Executive Order 12866. Accordingly, this rule has not been reviewed by the Office of Management and Budget (OMB).

This regulatory action determination is based on the size, location, duration, and time-of-year of the safety zone. This safety zone will minimally impact the New Bedford Harbor entrance. Moreover, the Coast Guard will issue Broadcast Notice to Mariners via VHF-FM marine channel 16 about the zone, and the rule allows vessels to seek permission to enter the zone.

### *B. Impact on Small Entities*

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term “small entities” comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

While some owners or operators of vessels intending to transit the safety zone may be small entities, for the reasons stated in section V.A above, this rule will not have a significant economic impact on any vessel owner or operator.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please

contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1-888-REG-FAIR (1-888-734-3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

#### *C. Collection of Information*

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

#### *D. Federalism and Indian Tribal Governments*

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

Also, this rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

#### *E. Unfunded Mandates Reform Act*

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires

Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

#### *F. Environment*

We have analyzed this rule under Department of Homeland Security Directive 023-01, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves a temporary safety zone effective from 8 a.m. June 1, 2022 through 6 p.m. June 5, 2022. This rule will only be subject to enforcement from 8 a.m. through 6 p.m. on one of these dates dependent on weather conditions. This rule prohibits entry of persons or vessels on the navigable waters within a 150-yard radius of movie production vessels filming near the hurricane barrier in New Bedford, Massachusetts. It is categorically excluded from further review under paragraph L60(a) of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1. A Record of Environmental Consideration supporting this determination is available in the docket. For instructions on locating the docket, see the ADDRESSES section of this preamble.

#### *G. Protest Activities*

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to coordinate protest activities so that your message can be received without jeopardizing the safety or safety of people, places or vessels.

## **List of Subjects in 33 CFR Part 165**

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

### **PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS**

1. The authority citation for part 165 continues to read as follows:

**Authority:** 46 U.S.C. 70034, 70051; 33 CFR 1.05-1, 6.04-1, 6.04-6, and 160.5; Department of Homeland Security Delegation No. 00170.1, Revision No. 01.2.

2. Add § 165.T01-0288 to read as follows:

#### **§ 165.T01-0288 Safety zone; Movie Production; Buzzards Bay, New Bedford, Massachusetts**

(a) *Location.* The following area is a safety zone: All navigable waters of the Buzzards Bay, MA, from surface to bottom, within a 150-yard radius around 41° 37.460N, 070° 54.350W, near the hurricane barrier in New Bedford, Massachusetts.

(b) *Enforcement period.* This section will be effective from 8 a.m. June 1, 2022 through 6 p.m. June 5, 2022. This section will be enforced from 8 a.m. through 6 p.m. on one of these dates dependent on weather conditions.

(c) *Regulations.* (1) Under the general safety zone regulations in subpart D of this part, you may not enter the safety zone described in paragraph (a) of this section unless authorized by the COTP or the COTP's designated representative. A designated representative is a commissioned, warrant, or petty officer of the U.S. Coast Guard assigned to units under the operational control of U.S. Coast Guard Sector Southeastern New England.

- (2) Vessels requiring entry into the safety zone described in paragraph (a) of this

section must request permission from the COTP or a designated representative. To seek entry into the safety zone, contact the COTP or the COTP's representative by telephone at 508-457-3211 or on VHF-FM channel 16.

(3) Persons and vessels permitted to enter these safety zone must transit at their slowest safe speed and comply with all lawful directions issued by the COTP or the designated representative.

(d) *Information broadcasts.* The COTP or a designated representative will inform the public through Broadcast Notice to Mariners of any changes in the planned schedule.

Dated: May 24, 2022

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C. J. Prindle,  
Captain, U.S. Coast Guard,  
Captain of the Port Sector Southeastern New England.

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